

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

MCR OIL TOOLS, LLC	§	CIVIL ACTION
Plaintiff,	§	
	§	NO: 4:20-cv-00560-O
VS.	§	
	§	JUDGE: REED C. O'CONNOR
	§	
	§	
DMG MORI USA, INC.,	§	
ELLISON TECHNOLOGIES, INC.,	§	
AND MORI SEIKI U.S.A., INC.	§	
Defendants.	§	

DEFENDANT DMG MORI, USA, INC.'S RULE 26(a)(2)(c) DISCLOSURE

To: Plaintiff, MCR Oil Tools, LLC ("MCR"), through its attorney of record, Marc A. Stach of Harris Cook, LLP, 1309-A West Abram, Arlington, Texas 76013.

Defendant DMG Mori USA, Inc. ("DMG") makes these expert disclosures as required by Federal Rule of Civil Procedure 26(a)(2) and pursuant to scheduling order of this Court entered on July 1, 2020.

A. IDENTITY OF EXPERTS

DMG may use the following persons at trial to present evidence under Federal Rule of Evidence 702, 703, or 705:

1. Non-retained testifying expert, David Shotwell. The expert's address and telephone number are as follows: 8420 North Sam Houston Parkway West, Houston, TX 77064; 281-810-9197.

C. INFORMATION FROM NON-RETAINED EXPERTS

The following persons are those who are not required to provide a written report: David Shotwell. Each disclosure contains the following:

- a. The subject matter on which the expert is expected to present evidence; and

- b. A summary of the facts and opinions on which the expert is expected to testify.
- 1. David Shotwell. Mr. Shotwell is an applications engineer employed by DMG MORI USA. His responsibilities include customer training and advice regarding proper use of DMG MORI machines. His regular responsibilities do not include providing expert opinions and he has not previously appeared as an expert witness. Mr. Shotwell is expected to testify about his observations during visits to MCR in May 2019 and January 2020, and his opinions based on those observations.
 - a. In May 2019 Mr. Shotwell visited MCR to train MCR operators who had been hired subsequent to the installation of the CTX machines. He observed that the operators were not using the bar feeder to feed bars in automated mode. He found that the bar feeder (not a DMG MORI product) was out of alignment with the spindle and that it was not programmed properly. He adjusted the bar feeder and corrected the program. In his opinion, attempts by MCR to operate the bar feeder with the incorrect program would have resulted in alarms and that operating without the bar feeder would reduce productivity. During this visit Mr. Shotwell also observed that MCR was using third-party software from Esprit to program machine operations and that the program MCR was using was not properly configured for the CTX machines and, in particular, included program lines referencing components that were not part of the CTX machines. In his opinion, the incorrect programming would have caused alarms. Mr. Shotwell discussed the Esprit programming with Jim Coleman (MCR's programmer) but Coleman was resistant to changing the program. Mr. Shotwell prepared a posting program for the part MCR was machining at the time and provided it to MCR.

b. In January 2020 Mr. Shotwell, together with other DMG MORI personnel, visited MCR. Mr. Shotwell observed that a turret was not indexing correctly. He found that MCR had mounted tools on the turret whose aggregate weight exceeded the maximum load specified in the product manual. In his opinion, the excessive weight caused the mis-indexing. Another DMG MORI engineer adjusted the turret speed to accommodate the weight of the tools MCR wished to mount on the turret. Mr. Shotwell also observed that coolant had leaked into the turret. He found that a tool-holder had been moved from the other CTX machine but had not been properly bolted to the turret, leaving a gap that allowed coolant to enter the turret. Mr. Shotwell also observed that the collet chuck on the subspindle was deformed, which interfered with the smooth transfer of the workpiece from the main spindle to the subspindle. He found that MCR was using excessive pressure on the collet and, in his opinion, that was causing the deformation and resulting operational problems. Mr. Shotwell also observed that MCR was still not programming the bar feeder correctly and that it had removed a component (the v-ramp) that is used to connect the bar feeder to the spindle liner to enable the bar feeder to load short bars. Mr. Shotwell adjusted the pressure on the collet, re-installed the v-ramp, and corrected the bar feeder program. On January 31, 2020, Mr. Shotwell observed the CTX machine operating throughout the day without any problems.

c. In Mr. Shotwell's opinion, MCR's failure to program the machines correctly and its operational errors were the cause of alarms, operational problems, and inefficiencies.

Respectfully submitted,

/s/ S. Jan Hueber

S. Jan Hueber

Texas State Bar No. 20331150
hueber@litchfieldcavo.com

Mahan Wright

Texas State Bar No. 24096880
wrightm@litchfieldcavo.com

Alan I. Becker

Illinois State Bar No. 0147524
becker@litchfieldcavo.com

LITCHFIELD CAVO LLP

100 Throckmorton St., Ste. 500
Fort Worth, Texas 76102
Telephone: (817) 945-8025
Facsimile: (817) 753-3232

ATTORNEYS FOR DMG MORI USA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served upon counsel of record in accordance with the Federal Rules of Civil Procedure on the 29th day of January 2021.

Via Email: EserviceArl@harriscooklaw.com

Marc A. Stach

HARRIS COOK, LLP
1309-A West Abram
Arlington, Texas 76013

ATTORNEYS FOR PLAINTIFF

Via Email: SShanes@clarkhill.com

Scott A. Shanes

SShanes@clarkhill.com
CLARK HILL STRASBURGER
2600 Dallas Parkway, Suite 600
Frisco, TX 75034
Telephone: (469) 287-3906
Facsimile: (469) 227-6568
Of Counsel

And

Via Email: roger.stetson@bfkn.com and carrie.sear@bfk.com

Roger H. Stetson

roger.stetson@bfkn.com

Caroline H. Sear

carrie.sear@bfkn.com

BARACK FERRAZZANO

KIRSCHBAUM & NAGELBERG LLP

200 West Madison Street, Suite 3900

Chicago, Illinois 60606

Telephone: (312) 984-3100

ATTORNEYS FOR DEFENDANT

ELLISON TECHNOLOGIES, INC.